

Quid Novi

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MCGILL UNIVERSITY FACULTY OF LAW

JANUARY 28, 1982

Law Students Taken To Prison

BY SUSAN ZIMMERMAN

On Tuesday, January 19th, a group of 18 law students visited the provincial minimum security detention centre popularly known as Bordeaux Prison. The tour was organized by the Board of Student Advisers with a view to giving first-year students the opportunity to see how our legal system operates beyond Chancellor Day Hall.

Set in the midst of an attractive residential quarter in the north of Montreal, Bordeaux's sprawling 19th century mass looms up quite unexpectedly for a visitor unfamiliar with the area. For the majority of the 750 inmates however, Bordeaux is anything but an unfamiliar

sight. According to M. Pierre Lefevre, a psychologist and Assistant Director of the prison ("wardens" no longer exist) most of the inmates are repeated offenders for whom Bordeaux is almost a second home. The majority of the prison population range in age from 18 to 25 and many of them meet there so often that beginning a new term is like returning to a club. Where do they all disappear to when they get older? M. Lefevre indicated that many of them "graduate" to the federal penitentiary at St. Vincent de Paul or simply end up in provincial institutions elsewhere.

85% RECIDIVISM

Although the prison authorities

separate first-time offenders to prevent bad influences, the recidivism rate is incredibly high: something on the order of 85%. Because sentences served do not generally exceed 16 months, M. Lefevre has no illusions about how much rehabilitation the professional staff of 15 social workers, psychologists and a psychiatrist can effect. He feels his contribution lies in humanizing the prison experience as much as possible by making rules less rigid and contact with authorities more personal.

Despite his efforts, some elements of our penal system border on the absurd: people sentenced for
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Meet You in Court ?

BY LESLEY CAMERON

Many law students are unsure whether they want to practice law; others can't wait to begin. Student Legal Aid Clinics give students a taste of actual legal practice while providing a service to both the University and municipal communities. Law students in Quebec are barred from offering anything other than information on legal matters. In Ontario, students may both advise and represent clients in the Courts.

C.B. Sproule of the Law School at the University of Ottawa and Faculty Review Counsel for Ottawa U Student Legal Aid Clinic conducted a workshop on Friday on "Law Stu-

dents in the Courts". His account of the Ontario experience provided valuable information for those students who would like to see a similar system adopted in Québec.

Legal Aid services in Ontario are administered by the Attorney General's office (Ontario Legal Aid Plan) under the Legal Aid Act, 1968. Student Legal Aid Clinics were authorised under subsequent regulations passed in 1971. As in Québec, candidates for legal aid must qualify for a certificate which is guaranteed for all indictable criminal charges. In other matters, the local Director exercises his discretion. Student and Community Legal Aid Clinics pick up the business of those refused cert-

ification.

Ontario Legal Aid Plan finances the Clinics, including a substantial insurance policy to protect each Clinic. At Ottawa U, the Students Federation supports the Clinic in exchange for a guarantee of legal assistance to any student, regardless of their financial status. The University has granted the Clinic a house on campus to accommodate their small library and provide office space and facilities for interviewing clients.

Any law student may participate in the Ottawa U Clinic after their first term. No academic credits are allocated, but participation is indicated on a student's transcript.
(Continued page 11)

Ragtime, Reds and Man of Iron

BY DEMETRIOS XISTRIS

The recent poor results of the film industry are not due to meager product but rather to declining audiences which are seeking higher utility for their entertainment dollar. Because of this, Ragtime, Reds and Man of Iron, are three of the best movies released simultaneously and yet they have done poorly at the box office.

"MILOS FORMAN'S AMERICAN PORTRAIT"

It is ironic that Milos Forman, a transplanted Czech, makes the finest movies of the American psyche. I can think of One Flew Over the Cuckoo's Nest, Hair, and now Ragtime, as fitting this description. Ragtime is his most ambitious metaphor of the history of the uprooted Negro in America. It shows Mr. Forman's unique ability to capture America in different historical times. Witness the scene in Ragtime of the lower East side of New York. If you notice carefully not a single word of English is spoken, yet as a viewer you understand the total dialogue. There is a feeling created that you are within the crowd which walks the streets hunting for bargains. This is the power of Mr. Forman's art. It is of tremendous evocative strength.

THE POSSIBILITY OF JUSTICE

Everything in the film revolves around the finely played Coalhouse Walker. You see his inability to gain any sense of dignity through his constant denial of equality as the basis of his problems. Elements such as the division of the Negro family, the idea that they should remain passive and seek strength through religion, and their constant degradation at all levels of society, are all played to the fullest value by Mr. Forman. Even the problems of the establishment families tend to wither when compared to those that are attached not by choice to Coalhouse Walker. Mr. Forman is aware that

these problems exist today and that they will exist tomorrow. It is the inherent contradiction that has plagued American society. And it is Mr. Forman's resounding statement in the final scene which admits that the Negro's place will never change because it is unacceptable to white America. Walker acted in the finale with the belief that there was justice. But as it turns out there was none - only a lack of status and a betrayal of the Negro.

CANBY'S ENTHUSIASM

Reds is not about communism. Only a paper so capitalist-centered as Barron's could make such a statement. Rather it is a movie about idealism, of the youthful spirit which entices each new generation to push for a better reality rather than to content itself with the status quo which through its inertia breeds injustice. Vincent Canby of the New York Times, the man who with the stroke of his pen killed \$40 million, a Hollywood director, and Heaven's Gate, all at the same time, wrote a review for this film which must have been one of his most enthusiastic that I ever read. Reds is the story of John Reed who is the only American buried in the Kremlin and who wrote Ten Days that Shook the World. His fame is known to few but his qualities make him model.

REAGANISM AT THE BOX OFFICE

There are many intricate plots and issues which envelop the film. There are many complex characters like Eugene O'Neil who is wonderfully cynically played by Jack Nicholson. Warren Beatty and Diane Keaton are both endearing to the audience. And there is Emma Goldman, Louise Bryant and dialogue by some very famous Americans. At first these characters look like plain old people but in fact they were amongst those who have probably been the most progressive force in the last American century. What

more than all so great was the way they would cling to their beliefs by the sword just as John Reed did. Of course many of them died by the sword (witness the McCarthy era)

but nonetheless this seems to have deterred few of the left. Reds stands up tall against the winds of Reaganism and I presume that this is one of the reasons the film is not doing as well as expected at the box office. It appeals to the intellectual class, to a group of people that do not see themselves as a central force but rather the world as their primary motivating force. Reds is a powerful statement for the latter, for the championing of the human spirit, and for the recognition of an environment which breeds free discourse and which in the end leads to harmony and not war.

MAN OF IRON

Man of Iron is the third and last political film that will be discussed in this context. This is one of the few films of great importance which opened in Canada before it did in the United States. Its historical importance as a document for the future is what separates Man of Iron from most films. Andrzej Wajda weaves the story of the pains of the Polish people to develop an identity outside of the Communist Party. Wajda's constant flashbacks at times become mesmerizing but this can be accounted for by the tremendous volume of material which he wishes to present, all of which is necessary. The film is tremendously allegorical in parts and may be prophetic when Wajda presents a government official telling a reporter outside the hall where Solidarity is celebrating the just-signed Gdansk Agreement that he should not worry. "Remember," he says, "it is just a piece of paper signed under duress."

It is impossible to conceive of the difficulties which Wajda must have encountered in making this

Bordeaux Tour

(Continued from page 1)

minor offences who arrive to serve their weekend terms, only to find that the prison can't accomodate them. So each weekend they dutifully sign in on the register, turn around and go home. Or those who spend only a day in prison, half of which is spent checking them in,

film. Sources say that some parts were censored and if so one wonders what effect they would have on the film, since it seems that the government allowed so much to be put on celluloid which endorses the spirit of Solidarity and condemns the government for their actions in previous uprisings by the Poles.

I do not think it possible that at any other time Wajda would have been allowed to make this kind of film. It was the result of gains in free speech that the Polish unions made. It is a triumph of the spirit of the Poles, of Wajda, and of Lech Walesa. Man of Iron is a credit to the human spirit which will not allow itself to be oppressed. But lurking behind the movie and Poland is that repressive feeling that the government still holds the last trump card.

There is a certain element in each of these three films which portrays idealism on the one hand and powerful forces on the other. Solidarity may be crushed tomorrow, the left in America may be discredited and torn apart, and the Negro may always be oppressed, yet their spirit will never die. This is the testament of Ragtime, Reds, and The Man of Iron. It is that a human life is not eternal but an idea or a dream is. It is that you cannot deny in the end what is just and deserved. History has repeated this countless times and will repeat it countless times more. It will only be when powerful forces realize that rules which are enforced by strength will never last that we will be able to achieve harmony within ourselves and amongst others. This is at the root of Ragtime, Reds, and Man of Iron.

issuing them clothes and a cell, feeding them, then checking them out.

THE TYPICAL INMATE

M. Lefevre was asked to give a profile of a typical inmate: he is a young man, product of a broken home or union outside marriage, functionally illiterate (even though most have had at least some high school education), unskilled and unemployed.

The prison does have classroom facilities, teachers from the Catholic School Commission, a 40,000-volume library and a music department (inmates have formed bands but there's a problem of quick turnover). Interested inmates can even pursue CEGEP courses at CEGEP Bois de Boulogne. Apart from the fact that few inmates are high school graduates, Lefevre pointed out that cells are not highly conducive to studying. We did see a classroom which actually had a student in it - on the blackboard was (presumably) the day's lesson: ABCDEFGH...

WHY IN PRISON?

Why are these men in prison? As M. Lefevre put it, "they watch the same T.V. as you and I."; the difference is that they know that the flashy cars, the comfortable homes and the trips south to escape the cold are all hopelessly beyond their grasp. The director of the prison shop said the men aren't there long enough to learn a trade; I'm not so sure, but the point is academic because there is no one there to teach them anyway.

Prisoners are paid for piece work at minimum wage. The day we were there, men were filling cartons with bottle caps while others stuffed seed charts into plastic envelopes. Just the sort of thing that inspires you to go out and find an earnest job.

Most of the men we saw looked like they wouldn't have to hotwire cars in order to steal them - they could just pick them up and walk off with them. Two male law stu-

dents who will remain unnamed were defensively unimpressed by the physiques surrounding them, asserting that these guys spent all their time in the prison weight-room. When I asked M. Lefevre to show us this fascinating facility, all I got was a blank look.

This 19th century prison contains no athletic facilities apart from an outdoor swimming pool (!), he informed me. There is however, a recreation room where inmates occasionally play floor hockey. And there are lots of pool tables.

NOT SQUALID & BRUTAL . . .

If you were expecting this article to paint a picture of the squalor and brutality of prison life, you are no doubt surprised, perhaps even a little disappointed that that's not what I found last Tuesday at Bordeaux. The inmates seem decently treated, the prison is at capacity but not overcrowded, the buildings are warm, well-lit and clean and prisoners have access to facilities which at one time were unimaginable for a penal institution.

BUT DEPRESSING NONETHELESS

But if you think I was pleased or at least reassured by what I saw, you have missed what is really depressing about Bordeaux, in a much more profound and permanent way than any amount of squalor and overcrowding. These men's lives are dead ends. Uneducated and unskilled, they are nonetheless products of our consumer society where if you have nothing, you are nothing. It is a well-worn adage that if you raise people's expectations without giving them the means to fulfill these expectations, you're going to have a lot of disaffected people on your hands. We shouldn't wonder that our prisons are full.

The Board of Student Advisors would like to thank the Dean's Office for the funding the transportation to and from the prison. Without this support the tour would not have been possible. Our thanks as well to David Sinyard for all his efforts, and his great driving.

EDITORIAL

The faculty has known for some years now that there are major defects in the National Program. Indeed, this was probably known from the program's inception. Nevertheless, successive Curriculum Committees reviewing the present arrangement have been unable to get any further than wrangling over first principles. One faction would question having an LL.B. at all in Québec. Another faction would fight vigorously to have the LL.B. as central to the scheme of things at this law school. And so the status quo survived by default.

This year, Curriculum Committee Chairman Rod Macdonald began with the premise that if specific amendments were the items up for debate, the process of revision might get somewhere. The Committee was to take as given that the idea of a National Program is valuable. Its goal, in Macdonald's eyes, was

to take the idea and make it a practical reality — ie. unlike present.

The proposals that emerged out of Prof. Foster's sub-committee looking into the National Program involved three broad sets of changes. First, the core of obligatory requirements "in the other stream" was to be raised to 17 credits both for LL.B. and B.C.L. students. Second, these courses were to be taken in second year (ie. after B.C.L. 1 a student would have a largely LL.B. year and vice versa). Third, after the second year switch, every student would have to answer the Shakespearean question: "To enter or not to enter the National Program?"

The immediate objectives were to push more students into the National Program stream and to make

the comparative legal work envisaged by the Program more of a reality in the classroom. These objectives were to be accomplished by drawing out an earlier commitment to the Program from the student and in doing so providing the student with the tools to do more comparative work in upper years.

When the proposal came from the sub-committee, proceedings of the full Committee did not go quite as smoothly as Macdonald had hoped. While Rob Wintemute, Kevin Nearing, and Tom Johnston, the student representatives on the Committee, seemed initially to be happy with the proposal, to the point of being quite protective of it, they started to have second thoughts when they pondered the effect of the proposals on the B.C.L.. At one meeting of the Committee, Johnston seemed to make a dramatic

AMERICAN CORNER

BY ALAN ALEXANDROFF

What's a "born-again" Canadian writing the initial piece for a hoped-for irregular column on American law and politics? Have I who became solidly nationalistic after ten years abroad suddenly questioned my recent conversion and returned to being a "Yankeeophile" or some such thing? Have I bowed to the inevitable march of history and switched to a "better red-white-and-blue" future instead of whatever happens north of the border?

Well, none of these exactly. The answer lies closer to a recent depression on my part resulting from the "adoption" of the Charter of Rights and Freedoms here in Canada, or at least apprehension of the consequences on the political culture of the arrival of the Charter. Whatever blessings might flow from the entrenchment of rights, some, including myself, see its imminent appearance as opening the floodgates to American law and jurisprudence into Canadian Courts.

Here, then, would be yet another stream of American influence, to erode the banks of Canadian identity. Worse, it will strike at the very foundation of our nation's tenacious culture — our Law.

Yet, on reflexion the worry seems a bit extreme. On the one hand is the more measured judgement—grounded on past Court use of the Canadian Bill of Rights—that the Canadian Courts are not likely to simply swallow American jurisprudence wholesale. Even more, the Courts, most notably the Supreme Court, have signalled their own close rein on judicial activism.

Then too, the entrenchment would engender a closer scrutiny by the media, the policy professions and possibly the broader public of the American scene especially in the rights area. Examination of this sort would naturally focus attention on developments in the U.S. in the area of law, political and social demands. But comparison itself can be a two-edged sword. It suggests similarity naturally. It might also highlight contrasts between the two. Such a critical appraisal of American rights theory, for instance, might in fact aid in the on-going defining process of institutions and culture in this

country. It could, in this instance, initiate debate on the meaning of rights in critical reflexion of American attitudes and judicial decisions.

It is not only in the area of rights theory that critical appraisal is required. How easy it was in the recent strike here in the public transport to recall with approval Reagan's action against the air controllers. This kind of reaction is easy but also facile. It ignores the radical differences between the American and the Quebecois political and labour background.

In an effort to provide the opportunities for discussion of this sort, this is a small response. In the weeks to come, examination of recent trends in American law and politics will appear in such areas as freedom of speech, religion, the press, legal rights etc. Also, efforts will be made to comment on relevant economic and social policy initiatives in the U.S. where the example or effects might be important here.

Naturally, the American Corner is eager to have submissions from you on such subjects or others, not named, which might shed light on the American scene.

volte face when he began questioning the point of having an LL.B. at McGill. He intimated that LL.B. professors had a stake in the National Program for security's sake alone. And so it seemed for a while as if another Curriculum Committee was heading toward inaction.

It should not be surprising, therefore, that the rather ambitious Foster proposal did not make it through the full Committee. However, it may be surprising that anything came out of the Committee at all. The proposal that will go to Faculty Council today does not change the amount of core obligatory credits "in the other stream". This is an answer to those critics who felt that three-year single degrees were an important and legitimate part of the McGill scheme of things and not to be tampered with by making them less attractive in themselves. However, the proposal that goes to Faculty Council today ensures that students will take their core credits in the other stream in second year. Furthermore, those students who want to enter the National Program will have to take extra credits in the other stream in second year. This means that students will have to make up their minds earlier on and will be thinking comparatively earlier on.

Although the proposal to be voted on today does not go as far as the Foster proposal went in shoring up the National Program, it does take some important steps in the right direction. McGill has been claiming for over a decade that its Program is unique in Canada insofar as it brings the two Canadian legal systems together. If this claim is to have any meaning, Faculty Council should approve the Curriculum Committee proposal.

RICHARD JANDA

STUDENT - FACULTY MOOT

Next Tuesday the Student-Faculty Moot will take place (see "Coming Events", page 9). The Moot Court Board has requested that Quid Novi print the problem so that spectators can better follow the action. The text of the problem follows:

This is an appeal from the judgment of Mr. Justice Learned Hands at trial in favour of the plaintiff In Security Trust Company (Security).

The facts found at trial are essentially these: Mr. Never Mind (Never) owned a common bawdy house located in the City of Montreal, the Mind Own Business Sex Emporium (Emporium). Never also had contracts of exclusive service for life terms with several ladies, including one Suzie Creamcheese (Suzie). In exchange the ladies received a small annual salary and room and board at the Emporium. Except for three weeks of vacation each year, the ladies were bound to spend all their time at the Emporium supplying their professional services. Never also supplied his ladies with suitable wardrobe and accessories.

Being of advanced age Never was desirous of retiring to Atlantic City. As a consequence he decided to sell his business as a going concern. Wanting to keep the Emporium within his family, he began

negotiating by letter with a distant cousin whom he had never met who lived in Winnipeg, Mr. Know Mind (Know). Thinking that the contractual terms could finally be determined if he and Never could negotiate in person, Know flew to Montreal. On Sept. 4, 1981, Know and Never met at the Four Seasons Hotel in Montreal and discussed the sale. Although agreement was reached on a number of important issues, the cousins could not agree on the purchase price. However on Sept. 16, 1981, Know borrowed some money from Security and, to secure his promise to repay, purported to create a hypothec on the Emporium and all associated immoveable property - what Security called their Blanket Policy.

Eventually the bargaining between the cousins deteriorated. Never decided not to sell his business and Know returned to Winnipeg. On Oct. 21, 1981, Know defaulted on a payment to Security and they decided to exercise their right of hypothec against the Emporium. In the action which is the source of this appeal, Security applied to the Court below for the seizure and sale of Suzie Creamcheese and a collection of whips, chains and ropes used by Suzie when working.

At the trial Never and Know challenged the action of Security on two grounds: that Know was never the owner of the Emporium and thus could not create any hypothec on it and that Suzie and the accessories were not, in any case, immoveable property and thus could not be subject to a hypothec.

Mr. Justice Learned Hands held that the ownership of all the immoveable property of the Emporium had passed to Know on Sept. 4, 1981, upon the meeting of the Minds. In addition, he held that Suzie and her accessories were immoveable by destination, having been placed for a permanency within the commercial undertaking, or alternatively were immoveable by nature, having become integral parts of the Emporium structure. The trial court therefore ordered the seizure and judicial sale of Suzie and her accoutrements.

The Mind cousins have filed an appeal from this decision.

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WASPISH ?!

Having read the January 14 number of *Quid Novi*, I was impressed by the quality of your journalism, but I was also dismayed by the racism which has crept into the columns.

On page seven of the issue, your film critic used the perfidious adjective "waspish". Examples of such bigotry are widespread in current North American writing and are a constant affront to those of us of Anglo-Saxon descent who also happen to be white and Protestant. We seem to be the scapegoats of this quarter of the twentieth century. Yet it has not been Anglo-Saxons who have been guilty of the vilest sins. Much too often lazy pseudo-intellectuals have lumped us in with the real villains, with little regard for discerning the truth.

If blame must be apportioned, it is those from north of the English border who must bear the burden. It is they who have tortured audiences for generations with their Highland prancing and terrible screeching of the pipes. When have we subjected any of your readers to such inhuman conduct? How many of your readers appreciate the nobility of morris dancing and the quiet dignity of mumming? The Scots brazenly tout their One Hundred Pipers. When have you heard us brag about The Three Shepherds? On the sly they always seem to be whispering "whiskey?". We openly quaff our ale -- brown, strong, and youth-sustaining. Need I mention that they still seditiously refer to Edinburgh as "the old capital"?

Even in Canada they escape our notice but their heavy hand is felt. Mackenzie, McTavish, and Fraser grew rich on the skin of many a murdered beaver. Strathcona and Mount Stephen helped McGill outdo Bishop's. In politics the Scots fifth columnists are everywhere... Sir John A., MacKenzie King, MacEachen, and in the L.U.S.! Even Her Majesty spends too much time at Holyrood and Balmoral.

Educate your correspondent, Sir, 1st Old Father Time grab him, give him to the Fisherman of England, and send him down to the sea -- in chips.

WULFSTAN

CALGARY

By now the image is clear: Sheriff Ralph Klein gathering up a posse in order to ride the "eastern buns and creeps" out of Cowtown once and for all. The sheriff is determined to save his fair city, even if he has to "kick ass" in order to do so.

There is no question that Mayor Klein's comments have had a detrimental effect on this country's already fragile sense of national unity, particularly in terms of its Anglophone-Francophone relations. The result of the man's verbal indiscretions remains to be seen.

Perhaps the overlooked victim of Mr. Klein's statements is the City of Calgary itself, and the image that it is trying to present of a progressive political and social entity. Being a native Calgarian, I shudder at the prospect of having our mayor's rather provincial views being regarded as representative of the citizens as a whole. Publicity of this nature is never welcomed by any group, particularly not a city that has been chosen to host the world in the 1988 Olympic Games. Statements such as those made by Mr. Klein's choice of words cannot be defended in any way; however, I can sympathize with the frustration that the man must feel in light of the city's escalating crime rate. The relatively bright economic picture in Calgary dictates that people will be migrating there in search for employment. The harsh reality of the situation is that the opportunities exist for only certain skilled positions, and as a result many unskilled laborers meet with disappointment. In view of this, the police figures indicating that transients are responsible for the majority of Calgary's armed robberies are probably accurate.

It indeed it was possible for the inexperienced mayor to have ameliorated the problem through a public statement, a simple warning as to the state of affairs would have sufficed. The mayor had no right to assume that eastern Canadians, specifically Quebecois are entirely to blame, nor was he justified in belittling them with his comments.

Whatever amends are made by Mr. Klein in the future, the effects of his comments on the city's relationship with Quebec citizens will not be favourable. From my viewpoint, I can only hope that his comments are not taken at face value.

PAUL DUNN LLB 1

WOMEN'S

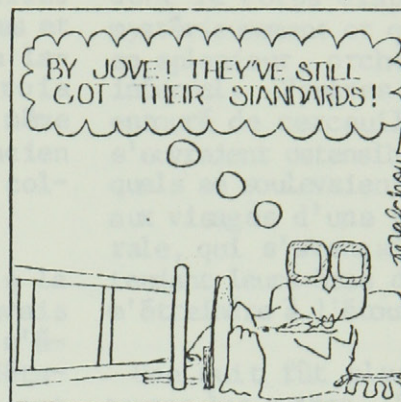
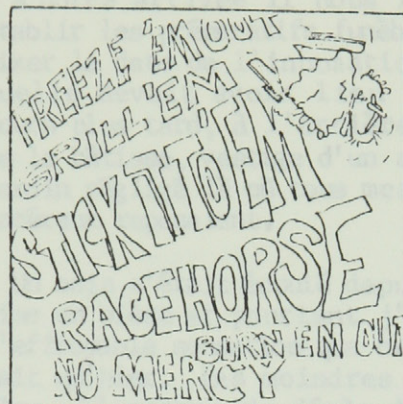
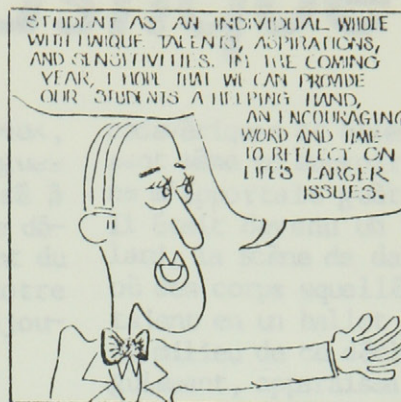
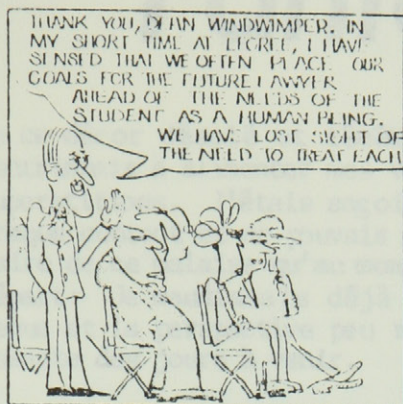
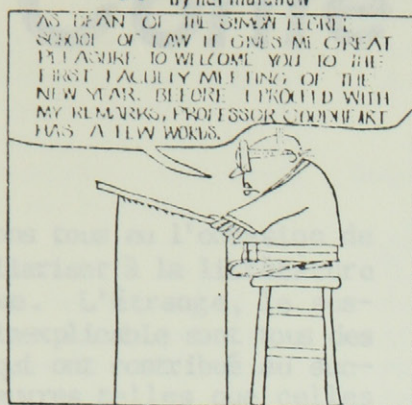
WOMEN AND THE LAW

How would you feel after having slaved away in these hallowed halls for what seemed like an eternity, only to be told that the firm you applied to doesn't hire women lawyers? Assuming you're a woman, chances are you'd be mad as hell (assuming you're a man, chances are you may also be upset, but that's another story). No law firm is likely to tell an applicant that much outright, nor is it likely that the majority of firms have men-only policies. Nevertheless, a 1980 survey indicates that such policies do exist.

Informing women law students about the obstacles that might arise during their legal careers is one of the objectives of "Women and the Law". The organization is planning to collaborate with the job bank in February in order to give students some idea of the hiring practices of various firms.

10phole[®]

by hal malchow



ISSUES AT MCGILL

Also in the works for the upcoming term are plans to show the controversial film "Not a Love Story", to create a stronger liason with the Women's Union, to bring in women lawyers to speak about their specialized fields, and to increase student awareness about legislation dealing with rape and sexual harassment. Included in the agenda is also a special series of events for International Women's Day, some of which may be coördinated with the Women's Union.

Whether such groups as "Women and the Law" aggravate discrimination is a long debated and somewhat worn out issue. But the best way to answer one truism is with a better one, as coördinator Martha Shea admirably demonstrated at the group's last meeting. "If a group is being discriminated against, how else can they get their rights?", she answered, and in case I hadn't perceived her contempt for the question, she added, "I just don't

understand people who ask questions like that." As long as questions like that are seriously being asked, groups like "Women and the Law" will be helping to find some solution.

(Both men and women are invited to participate. Call Martha Shea at 845-7827.)

THE WOMEN'S INFORMATION AND REFERRAL CENTRE

A woman has been left by her husband who, she claims, is a monster. She has few resources, lots of children, and her landlord is threatening to throw her out on the streets. What legal advice can you, as a law student, give her? None. But you can be an Alexander the Great to her Gordian knot of legal problems by informing her of the grounds for divorce, whether she can obtain a "do-it yourself" divorce, and what lawyer is available to take on Legal Aid cases.

The Women's Information and Referral Service is doing just that, and the seven-odd law students who operate a clinic once a week are there to help women who are often unaware of their legal alternatives and courses of action. Most of the cases are either matrimonial or landlord-tenant related problems. Students who become involved in the organization gain a solid practical view of the kinds of problems that arise in these and other fields, as well as an insight into how they are dealt with.

Coördinator Anne McLernan is on the lookout for interested students who would be willing to give a helping hand. Now is NOT the time to forget that you wrote "I want to help people" on your c.v. in answer to the question "Why do you want to go to Law School?" So give Anne a call at 684-3207, or call the Centre at 842-4780.

PEARL ELIADIS BCL I

Conte Fantastique

Nous avons tous eu l'occasion de nous familiariser à la littérature fantastique. L'étrange, le suspense, l'inexplicable sont tous des éléments qui ont contribué au succès des œuvres telles que celles écrites par Poe, Hitchcock et Maupassant. Reste que ce ne sont que des histoires conçues de toute pièce. Il arrive toutefois que le fantastique de la réalité dépasse celui de la fiction.

Voyez plutôt l'incroyable expérience vécue par un ami dont voici les faits:

A la mort de ma grand-mère, j'avais dû, avec mes parents, m'installer à la maison ancestrale, seul héritage légué, celle-là même qui avait été construite depuis au-delà d'un siècle et qui avait été le témoin de la naissance et de la mort des membres de toute notre dynastie. C'était une immense demeure triste, aux murs gris et froids. Quelques branches de lierre éparses habillaient tant bien que mal, la charpente pierreuse. Autour du bâtiment avaient été plantés de gigantesques hêtres maintenant dénudés et dépéris. Semblables à de grands cavaliers noirs, ces arbres paraissaient monter la garde, prêts à se jeter sur l'intrus imprudent. En cette journée pluvieuse où l'orage lointain gonflait, cumulait les sombres nuages, cette structure massive paraissait horriblement déserte, abandonnée.

Cette demeure avait une histoire désolante et les villageois du comté préféraient en taire l'existence. Cette histoire, je ne la connaissais point moi-même, mais j'imaginai que la vieille maison devait cacher derrière son étouffante pierraille, un passé plein de scènes plus ou moins étranges, qu'il valait mieux ignorer. Ne pouvais-je d'ailleurs réprimer cette sensation d'oppression qui m'étouffait à chaque visite? L'atmosphère

de ce décor désolé et ténébreux, contribuait à alimenter mes vagues superstitions. J'étais angoissé à chaque contact et ne pouvais me défendre de ce malaise qu'au moment du départ: Je maudissais déjà notre venue et la perspective peu réjouissante des jours à venir.

A notre arrivée il nous fallut établir les préparatifs funèbres et fixer la date de l'inhumation laquelle devait avoir lieu trois jours plus tard, à l'arrière même de la bâtisse, vestige d'un ancien jardin négligé là où tous mes collatéraux reposaient.

Un mois s'était écoulé depuis la mise en bière et pourtant j'avais l'effroyable sensation que ce n'était qu'hier. Les moindres détails: l'annonce du décès de cet très chéri, la veillée au corps, la sépulture, tous tournoyaient dans ma tête dans un tourbillon affolant qui ne semblait vouloir s'apaiser. Cela avait été ma première confrontation avec la mort et j'en avais été grandement affecté. Une peur malade de la mort, ou plutôt des morts, s'était emparée de moi et je devais combattre à tout instant contre cette imagination morbide envahissante. L'atmosphère néfaste de cette demeure sinistre que j'avais d'ailleurs prise en aversion semblait contribuer à cette psychose grandissante. Ces sombres obsessions s'emparaient de mon insomnie ou, alors que finalement assoupi, venaient hanter mon repos.

Ainsi, alors que je cherchais désespérément le sommeil, je sentais autout de moi une présence fluide, une ombre enveloppante, qui ne cessait, me semblait-il, de me bercer, de me tourmenter. Des bruits insolites venaient désagréablement rompre le silence de la nuit et dans un spasme nerveux, je tréssaillais, cherchant quelque issue pour m'échapper de cette présence étrange et impalpable. Autour de moi dans le pénombre, les objets familiers semblaient prendre des formes mystérieuses, avaient l'air de se métamorphoser en des visages

cadavériques et hideux, et paraissant même se mouvoir. Le sommeil ne m'apportait guère de secours. Il était devenu un épais brouillard, la scène de danses macabres où des corps squelettiques s'agitaient en un ballet funèbre. Puis au milieu de ce déchaînement languissant, apparaissait mon aïeule dont le corps diaphane flottait mystérieusement et qui, du haut de sa splendeur, orchestrait ce bal infernal. D'autres nuits j'étais entouré de cercueils sombres qui s'ouvraient ostensiblement et desquels se soulevaient des cadavres aux visages d'une pâleur spectorale, qui s'avançaient vers moi, tendant leurs bras décharnés pour m'étreindre à l'étouffement.

Une nuit fût plus atroce que toutes les autres. De ma chambre, je pouvais discerner une forme drapée de blanc, étendue sur le canapé du boudoir et semblait, dans le crépuscule naissant, laisser poindre une légère luminosité bleuâtre. Une force indéfinissable et à laquelle toute résistance était vaine, me poussait à m'approcher de ce lit mortuaire et à soulever le linceul. Avec effroi, je retrouvais le cadavre de ma grand-mère. égaré, je sentais les gouttes de sueur perler sur mon dos. Mes jambes avaient peine à me soutenir, mon souffle était précipité, mon cœur affolé semblait prêt à éclater et pourtant je persistais à observer cette forme immobile. J'eus soudainement l'horrible sentiment que le corps se mettait à se mouvoir imperceptiblement. J'avais beau me persuader que ce n'était que le fruit de mon imagination, mais le malaise étouffant qui m'habitait me criait tout le contraire. Je me risquai à m'approcher tout prêt et à regarder ce visage cireux et inerte, puis je tendis l'oreille croyant percevoir un léger souffle de respiration. En me retournant pour observer de nouveau cette tête, je vis avec horreur ses yeux injectés de sang, agrandis et exorbités me regarder fixement et avec, me sembla-t-il, convoitise. Je sentais en moi

*** COMING EVENTS ***

Thursday, January 28

Junior Moot Court Board

First Year Students: The sign-up sheets have been posted in the basement. Please sign the sheet as soon as possible. The deadline is today at 5:00 pm.

Upper Year Students: This year the bench will be composed of one lawyer and two upper year students. This requires substantial participation on the part of second, third, and fourth year students. Please sign the judges' list that is posted in the basement as soon as possible.

Christians in Law

"Is it possible to be a Christian in law school?" Informal discussion, coffee and donuts. All Christians welcome. Common room at 1:00 pm.

Faculty Council Meeting

Proposed curriculum changes will be discussed in an open meeting. Room 202 at 4:00 pm.

Tuesday, February 2

Student-Faculty Moot

This moot is funny, entertaining, defamatory! An event you mustn't miss! A special invitation is extended to all first year students: it's an invitation to the Joys of Mooting!

Starring:

Mr. John Webster

Mr. Neil Cobb

vs.

Prof. Blaine Baker

Prof. Michael Bridge

The Bench:

Prof. Terrence Wade

Ms. Tanis McLaren

Chief Justice Alan Gold

A post-moot party will follow. Moot Court at 7:00.

Wednesday, February 3

Panel Discussions on International Conflict

The Panel Discussion Series of the McGill International Law Society takes place this year during February. This first symposium will focus on Canada's contribution to Western security and international peace-keeping efforts. Participating in the discussion will be Brigadier General Charles Beattie, Mr. Simon Wade, Coördinator, Military Policy and Planning, Dept. of External Affairs, and Mr. Murray Thompson, Director, Project Ploughshares. Moot Court at 7:30 pm. Next Panel is February 18.

cette vague nausée, celle-là même que provoque un insoutenable spectacle. Je voulais hurler, mais aucun son paraissait vouloir se libérer de ma gorge nouée. Un sanglot d'angoisse m'étranglait, ma vue se voilait peu à peu, les battements désordonnés de mon cœur se répercutaient aux tempes, je me sentais défaillir. Puis dans un suprême effort de ressaisissement, je parvins à me remettre de ce vertige engouffrant, à détourner le regard de cet horrible scène, pour m'élancer et quitter ces lieux atroces. Mais au moment de bondir, la main froide de la mort me saisit le bras. Je tentais avec acharnement de me libérer de cette poigne mais plus je me débattais plus je sentais cette étreinte se refermer, transpercer ma chair. Puis dans une ultime tentative je parvins à m'échapper, abandonnant cette femme agitée, hurlant de rage, maudissant son échec.

Quand je me réveillai halletant, dans un brusque sursaut, je fus soulagé d'entrevoir les rayons du soleil transpercer la crétonne qui habillait la fenêtre de la pièce. Au moment de me lever, je ne pus réprimer une grimace de douleur; mon bras était meurtri...

DIANE LESSARD BCL I

PRACTICAL LAW

Recent efforts on the part of many students and professors to increase resources for the Legal Clinic Course (496-046) have borne fruit. As noted in a previous article in *Quid Novi* (last Nov. 19) a number of Legal Aid offices have expressed an interest in having students work with them. (A list is available at the SAO.)

Student interest has followed suit. Six more people — there was only one before — opted into the course in January. The number is expected to grow in the 1982/3 session. Resources permitting, we will try to make the list available at pre-registration time. If you are one of those who worries about the everyday relevance of other courses you are taking, this one should provide the needed perspective.

Each individual's programme, of course, is the product of negotiation among the interested parties: the student, the legal aid office concerned and the Faculty Adviser to the Legal Clinics, Associate Dean Rod MacDonald. It is not simply an easy way to get two credits: the student is required to do

about one hundred hours of work in the office. That works out to about eight hours a week during the term, ending with the start of exams. "Court run" cannot count for a significant number of these, the idea being basically to give students the opportunity to participate in interviewing, negotiation and trial preparation, to do research and legal writing of a practical sort and to experience the various other elements of life in a legal clinic (community organization, public legal education, or speakers programmes). On the question of evaluation it is required that some of the written work be available at the end of term.

Until such time as a complete set of guidelines can be drawn up, the Clinic course is seen by Faculty as coming under the rubric of "Outside Credits", which may restrict eligibility. Your attention is drawn to regulation 10 in the calendar, and more especially to the "interpretation note" on the Dean's noticeboard. Various interested parties will be working on new "clinic guidelines and procedures" this spring. They should be available at pre-registration time.

CAMPBELL STUART

Abortion and Family Planning

BY KWAMOGI ANYWAR

On Monday, January 11, Professors Sklar and Sommerville staged a provocative and informative debate on abortion for their combined Criminal Law classes. Prof. Sklar, in arguing that abortion should be de-criminalized, suggested that where competing rational value claims divided society, the criminal law is a cumbersome institution to use in settling the dispute. Instead, the family, religious groups, and other non-legal institutions should be left to settle the matter. Prof. Sommerville examined moral, social, political, legal, and medical aspects of the debate which led to her conclusion that society must uphold the value of life in maintaining criminal sanctions against abortion. The author would like to examine some other medico-legal aspects of the abortion issue which should be addressed before deciding whether abortion should be de-criminalized. In particular, it is the object of this article to examine the issue in light of the question of family planning and health care and the experience of other jurisdictions.

FAMILY PLANNING ESSENTIAL

Medical studies have recognized and revealed that family planning is essential to health. Women who bear children too early or too late in life, women who bear too many children, and women who bear successive children within a short time endanger themselves and their children. Yet, even with knowledge of these hazards, most governments still do not provide all prospective parents, whether teenagers in Montreal or newlyweds in rural Uganda — with access to reliable contraception. As K. Newland has argued in *The Sisterhood of Man*, no health programme can be considered complete unless it offers ready access to appropriate family planning measures for all potential parents. In 1970, A World Health Organization (WHO) Committee defined and described family planning

thus:

Family planning refers to practices that help individuals or couples to attain certain objectives; to avoid unwanted births; to bring about wanted births; to regulate the intervals between pregnancies; to control the time at which births occur in relation to the ages of the parents; and to determine the number of children in the family. Services that make these practices possible include education and counselling on family planning, the provision of contraceptives, ... education about sex and parenthood, ... screening for malignancy, and adoption services. (WHO Technical Report Series, No 476, 1971 p. 8)

HUMAN RIGHTS OBJECTIVES

The WHO Technical Report Series links family planning with human rights objectives. The objective is to allow freedom of choice with respect to pregnancies and births to assure that each child born is a wanted child. Furthermore, every couple should have the right to bear children and should be helped to be physically able to do so. And every couple should have the right to decide on the number and spacing of their children.

Another objective is socio-economic. The size of the population in a given society should be consistent with the resources available to maintain and improve the quality of life of that society's population. This objective is usually put in demographic terms, particularly in relation to the number and rate of births in a given society.

UNWANTED PREGNANCIES

Given these objectives, one should examine what the consequences of not pursuing them are for the physical and mental health of individuals and the living environment of families. The ill effects of unwanted pregnancies include: increase in infant and maternal mortality after the fourth pregnancy; poverty and malnutrition prevalent in excessively large fam-

ilies which may result in permanent damage to children; housing problems; strained relationships between spouses; the effect of pregnancy on a mother's job situation; the shattering effect of pregnancies on young unmarried girls; forced marriages of immature couples; and an extremely high number of abortions. In addition, it has been shown that a child who feels unwanted by his parents runs a higher risk of emotional instability and juvenile delinquency than a wanted child (cf. Forssman and Thuwe, 1966 and Group for the Advancement of Psychiatry, 1973.) Thus, problems of general social welfare as well as family welfare are involved.

ILLEGAL ABORTIONS

The problem of "illegal abortions" may be among the most serious consequences of the non-accessibility of contraception. Induced abortion is probably the single most widely-used method of fertility control in the world today and has been associated with declining birth rates in many countries (cf. U.N. Advisory Committee, 1971). Although legislators in the 19th and 20th centuries tried to stop abortion by strict legislation, it was, and is, the most common form of birth control. Indeed, a number of Latin American policy makers have concluded that improved access to contraception is essential for a solution to the problem. (*Population Dynamics Quarterly*, 1973 and 1974).

In some cases, it is necessary to terminate pregnancy on medical grounds. Under these circumstances, consideration is given to a woman's life and health and an abortion is performed in order to avert grave danger. However, from a purely medical point of view, the number of health conditions necessitating artificial abortion is small. These are mainly conditions of the heart and some serious kidney diseases. Also, in some cases of severe psychiatric disorders, termination of pregnancy may be undertaken.

Turning to illegal abortion,

implying here the termination of pregnancy through illegal procedures and not under recognized medical supervision, it is quite clear that this is a problem whose overt manifestations are merely the tip of the iceberg. The author is unable to obtain any accurate information regarding the magnitude of this problem and the reasons are obvious. It is an area which comprises the quack in the back streets of our modern cities and towns as well as some registered physicians who have made a lucrative private practice from illegal abortion. Those of us who have worked in hospitals are aware of the vast numbers of women who end up in casualty wards with what might appear to be a spontaneous abortion and have come to have the process completed.

WHO ARE THE VICTIMS?

The grim side of this story is that many of these victims of "illegal abortions" suffer irreparable damage to their reproductive systems as a result of infection. Some have died because of the clandestine procedures or overdose of a supposedly abortifacient drug while others suffer chronic illhealth.

Further, "illegal" or "criminal" abortions are common among teenagers. Statistics kept by a physician who performed abortions in the U.S. over a 30 yr. period indicate that between 1955-64 the percentage of young women on whom he performed abortions rose from 9% of the total to 19% (Abortion in a Changing World. 222 R. Hall ed. 1970). In the State of N.Y., before abortion was freed of its legal restraints, 25% of legal abortions were performed on women who were less than 20. (cf. G. Tietze, "Early Medical Complications of Legal Abortions", *Abortion and Law*, J. Butler, ed., 1972). In fact, the list goes on. This seems to indicate that the number of abortions among the young is increasing.

THE LAW IN OTHER COUNTRIES

In Ireland, the Philippines, some countries of Latin America and in many other developing countries, particularly those which were formerly under British Colonial rule,

abortion is a criminal offence for which there are no exceptions. However, countries such as Algeria, Malaysia, and Paraguay do permit abortion when it is necessary to save the life of the pregnant woman. Cameroon and Thailand on the other hand permit abortion where there is evidence that the pregnancy is a result of rape, incest or other illicit intercourse.

In Scandinavia abortion is permitted on a wide variety of socio-economic grounds. Other countries have authorized abortion where a young woman is below a certain age. Others have made abortion available on "demand" or "request".

In the People's Republic of China, for instance, abortion is not only permitted on demand but is available as a "free public service". This implements in full the 1969 United Nations Declaration on Social Progress and Development, which calls upon U.N. members to provide their people with not only the knowledge, but also "the means necessary to determine freely and responsibly the number and spacing of their children" (U.N. Doc. A/7388, 1969).

In *Roe v. Wade* (410 U.S. 113, 1973) a case which involved the constitutionality of a Texas statute forbidding abortion except to save the woman's life, the abortion laws in the U.S. were altered to permit abortion on "demand" or "request" during the first trimester. The decision was based on the essential fact that the decision to have an abortion during the first three months of pregnancy "lies with the woman and her doctor".

RELAX OUR LAW

It is clear from the preceding discussion that different jurisdictions have taken a variety of different approaches to the legal status of abortion. Before we decide the issue, we should carry out further systematic study of the various social consequences observed elsewhere under different laws. Only then can we properly balance all the factors which must be taken into account. It may well be that family planning objectives and the social miseries associated with the widespread reality of abortion suggest that the present law should be relaxed.

(Continued from page 1)

Students work in "cells" of 15 under the supervision of an experienced student. The Faculty Review Counsel is ultimately responsible to the directors of the Ontario Legal Aid Plan.

Each staff member is responsible for 6 or 7 files and must commit approximately 10 hours per week to the project. He or she may expect to handle mostly Landlord/Tenant problems, impaired driving charges, simple possession cases and the like. The Clinic also manages a few Criminal appeal cases and students represent clients in Small Claims Court for amounts under \$1,000. Approval to raise the limit to \$3,000 is pending.

Mr Sproule was questioned about the nature of the solicitor/client relationship in a Legal Aid case. Clients must sign a statement acknowledging receipt of student -- not professional -- services. There are some complaints about the high turnover of students handling an individual case. Problems may also arise on issues of evidence and privilege. At the moment, only the Judge's discretion prevents a Court from issuing a subpoena for a student to give evidence from a client's file.

The reaction of the local Bar to the Student Legal Aid Clinic is mixed. On the one hand, practitioners argue that there are enough hungry lawyers around without students stealing their business. They complain that students can afford to spend more time on each case than can be spent by the opponent's counsel and that students tend to drag out the litigation. On the other hand, Mr. Sproule said that the Ottawa Criminal Defense Bar often advises the Clinic staff and has developed close working relationships with staff members.

Student Legal Aid Clinics provide an opportunity for law schools to work in closer coöperation with the Bar on other than academic matters as well as the chance for students to develop and apply practical legal skills. The recent proposal for a revised Legal Clinic is a step in the right direction (see Campbell Stuart's article within).



The Eternal Sandbox

Young and innocent
time consuming frivolity
equality of youth
shattered
the dinky toyed hours
pen and suits
boots and hands
a mild game struggle
children versus children
life kept on the harmless level
fun and simple
lost and baffled in gaming politeness
forgetting who the real enemies are

Hysterical Silence

Majestic craggy mysticism
awe inspiring
timeless
proud
towering over the Ken and Barbie dwarfs
with the 39.99 Polaroid imagination
snapping like spoilt poodles
(which were left behind at the four star kennel)

Soon their blind eyes tire
such strenuous activity
they can see the damn things on the home screen anyways
now it's off to air conditioned retreats
of polyester and synthetic leather
deoderized compartments of the living dulled

down the road another viewpoint
more corrupted innocent bastard children
chocolate smeared
stuffed at the simulated logger's camp
"all you can eat"

Belly protruding leader of the pack
bermudaed intelligence office instinct
hunter of the high dividend
bought wife with gold and diamonds
that mean so much
and even more to the neighbours

and all gather at the lookout
object of mockery that they are
the silent massifs roar
in hyteria
kings and queens of it all

Junkie of sorts

up the highway flows the citrus juice
from Florida
Anita Bryant
the pusher
scores a hit
and all are satisfied
except the Orange Bird
for she can't talk
and
is forced to sing
at
gunpoint

R.K. STEPHEN